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1900 St. James Place, Suite 500
Houston, Texas 77056

ATTORNEYS FOR LOANCARE LLC, SERVICING AGENT FOR MID AMERICA MORTGAGE, INC, AN
OHIO CORPORATION ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

IN RE:	§	CASE NO. 18-20374-C-7
	§	
BILLY THERON GREEN, JR.	§	CHAPTER 7
DEBTOR,	§	
	§	
LOANCARE LLC, SERVICER FOR	§	
MID AMERICA MORTGAGE, INC,	§	A hearing on the Motion for Relief
AN OHIO CORPORATION ITS	§	from Automatic Stay set for:
ASSIGNS AND/OR SUCCESSORS IN	§	
INTEREST	§	NOVEMBER 2, 2018 AT
	§	9:00 A.M.
v.	§	
	§	
BILLY THERON GREEN, JR. AND	§	
CHRISTOPHER R. MURRAY,	§	
Trustee;	§	
RESPONDENTS.	§	

JUDGE DAVID R. JONES

**MOTION OF LOANCARE LLC, SERVICING AGENT FOR MID AMERICA
MORTGAGE, INC, AN OHIO CORPORATION ITS ASSIGNS AND/OR SUCCESSORS
IN INTEREST TO TERMINATE THE AUTOMATIC STAY OF U.S.C. §362(a) TO
PERMIT MOVANT TO PROCEED WITH EVICTION OF OCCUPANTS AT 13949
JIBSTAY ST., CORPUS CHRISTI, TEXAS 78418 AND REQUEST FOR VARIANCE**

NOTICE

**THIS IS A MOTION FOR RELIEF FROM THE
AUTOMATIC STAY. IF YOU OBJECT TO THE
GRANTING OF RELIEF FROM THE AUTOMATIC STAY,
YOU SHOULD CONTACT THE MOVANT IMMEDIATELY
TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT
REACH AN AGREEMENT, YOU MUST FILE A WRITTEN
RESPONSE AND SEND A COPY TO MOVANT NOT
LATER THAN October 26, 2018 (SEVEN (7) DAYS**

PRIOR TO THE HEARING) AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONICALLY DELIVERED IF IT IS SENT LESS THAN 7 DAYS BEFORE THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON NOVEMBER 2, 2018 AT 9:00 A.M. IN THE U.S. FEDERAL COURTHOUSE, 1133 N. SHORELIBNE BLVD., CORPUS CHRISTI, TEXAS 78401

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:

COMES NOW, LOANCARE LLC, SERVICING AGENT FOR MID AMERICA MORTGAGE, INC, AN OHIO CORPORATION ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, (hereinafter "Movant"), and files this Motion to Terminate the Automatic Stay of 11 U.S.C. §362(a) and to Permit Movant to Proceed with Eviction of Occupants at 13949 Jibstay St., Corpus Christi, Texas 78418 (hereinafter "Motion"), and in support thereof would respectfully show the Court the following:

- 1. Movant hereby seeks to be exempted from the requirement to file this Motion on the form promulgated by the Court due to the fact that the Property that is the subject of this Motion was foreclosed upon prior to the filing of this bankruptcy and Movant is seeking to exercise its rights as owner of that Property. A Payment history is not relevant to this Motion or to the determination of this Motion by the Court.**

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §1334 and 157, 11 U.S.C. §362(a), 11 U.S.C. §362(c)(3)(A) and 11 U.S.C. §1301(a). This is a core proceeding.
3. On or about August 27, 2018 Debtor filed this petition for relief under Chapter 13 of the Bankruptcy Code.
4. On or about August 10, 2016, the Debtor executed a Note in the original amount of \$211,556.00 (the “Note”). The Note was secured by a Deed of Trust executed by Debtor, granting a lien and security interest to the owner/holder of the Note and lien on real estate with all improvements described as follows:

LOT 20, BLOCK 714, PADRE ISLAND-CORPUS CHRISTI BARATARIA BAY UNIT 3, CITY OF CORPUS CHRISTI, ACCORDING TO MAP OR PLAT THEREOF RECORDED IN VOLUME 34, PAGE(S) 86-87, OF THE MAP AND/OR PLAT RECORDS OF NUECES COUNTY, TEXAS, more commonly known as 13949 Jibstay St., Corpus Christi, Texas 78418.

(hereinafter, the “Property”). A true and correct copy of Note and Deed of Trust are attached as Exhibit “C” and “D” respectively and are incorporated herein by reference.

5. Prior to the filing of this bankruptcy petition, there was a payment default according to the terms and conditions of the Note and Deed of Trust. In accordance with the Deed of Trust, Movant proceeded with its rights under the terms of the Deed of Trust. On May 1, 2018, Movant proceeded with the posted foreclosure sale. Movant sold the Property at the foreclosure sale to the highest bidder. The highest bidder for the Property was Movant. As a result, as of May 1, 2018, Movant was the owner of the Property. A true and correct copy of recorded Substitute Trustee’s Deed is attached as Exhibit “C” and is incorporated herein by reference.

6. After obtaining title to the Property, Movant proceeded with an eviction by filing a forcible Entry and Detainer Action in the Justice of the Peace Court in Nueces County. On July 30, 2018, the Justice of the Peace court entered a Judgment awarding possession of the Property to Movant. A true and correct copy of the Judgment is attached hereto as Exhibit "D" and is incorporated herein by reference.
7. Debtor appealed the Judgment of Eviction. On August 20, 2018, the County Court of Nueces County, Texas entered a Judgment affirming the eviction Judgment and awarded possession of the Property to Movant. A true and correct copy of the County Court Judgment is attached hereto as Exhibit "E" and is incorporated herein by reference.
8. Movant is entitled to possession of the Property. The Property is not property of the estate. Debtor is not entitled to continue his occupancy of Movant's Property. But for the filing of this bankruptcy proceeding, Movant would have proceeded to issue a warrant and taken possession of the Property.
9. Based upon the foregoing, Movant requests the Court enter an order terminating the automatic stay so that Movant may proceed to evict Debtor and all other occupants from the Property and allow Movant to take possession of the Property.

WHEREFORE, PREMISES CONSIDERED, Movant prays that this Court::

- a. Enter an Order terminating the automatic stay so that Movant may proceed to exercise its right of possession of the Property, including issuance of writs and warrants so that Movant may evict Debtor and all other occupants from the Property located at 13949 Jibstay St., Corpus Christi, Texas 78418 and to thereafter take possession of the Property.

- b. That the provision of Bankruptcy Rule 4001(a)(3) be waived and this order terminating the automatic stay shall be effective immediately.
- c. Such other and further relief at law or in equity as Movant may show itself justly entitled.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

/s/ MITCHELL J. BUCHMAN
MITCHELL J. BUCHMAN
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ATTORNEYS FOR CREDITOR

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was electronically filed on October 3, 2018 and served on the same day electronically or by First Class U.S. Mail, postage paid, in accordance with the Bankruptcy Rules to the following:

ELECTRONICALLY OR BY REGULAR FIRST CLASS U.S. MAIL, POSTAGE PREPAID TO:

Debtor:
BILLY THERON GREEN, JR
13949 JUBSTAY ST.
CORPUS CHRITI, TEXAS 78418

Chapter 7 Trustee:

CHRISTOPHER R. MURRAY
DIAMOND MCCARTHY, LLP
909 FANNIN ST., 37TH FLOOR
HOUSTON, TEXAS 77010

U.S. Trustee:

Office of the US Trustee
606 N. CARANCAHUA
CORPUS CHRISTI, TEXAS 78401

Parties Requesting Notice:

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP
P.O. BOX 17428
AUSTIN, TEXAS 78760-7428
ATTENTION: DIANE SANDERS

SYNCHRONY BANK
C/O PRA RECEIVABLES MANAGEMENT, LLC
PO BOX 41021
NORFOLK, VA 23541

/s/ MITCHELL J. BUCHMAN
MITCHELL J. BUCHMAN
TBA# 03290750